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Lawrence M. Nawrocki  
Nawrocki, Rooney & Sivertson, P.A.  
Suite 401, 3433 Broadway Street, NE  
Minneapolis, MN 55413

In re Application of  
CHAN, et al.

Application No.: 10/530,247

PCT No.: PCT/CA03/01474

Int. Filing Date: 06 October 2003

Priority Date: 04 October 2002

Attorney Docket No.: 19525/101/101

For: GAS COMPRESSOR WITH DRIER AND  
RADIO EMISSION CONTROLS

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "PETITION IN ACCORDANCE WITH MPEP § 711.03 (c) A" filed 27 February 2007 in the United States Patent and Trademark Office (USPTO). No petition fee is required.

### **BACKGROUND**

On 06 October 2003, applicant filed international application PCT/CA03/01474 which claimed priority to a previous United States application filed 04 October 2002. Pursuant to 37 CFR 1.495, the deadline for submitting payment of the U.S. Basic National fee was to expire at midnight on 04 April 2005.

On 04 April 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 26 August 2005, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) indicating that an executed oath or declaration of the inventors was required. Applicant was afforded two months to file a proper response.

On 06 December 2004, applicant filed the present petition under 37 CFR 1.181 indicating that the Form PCT/DO/EO/905 mailed 26 August 2005 was never received.

### **DISCUSSION**

As detailed in Official Gazette notice 1156 OG 53 and the Manual of Patent Examining Procedure 711.03(c), a petition under 37 CFR 1.181 requesting relief based upon non-receipt of an office action must be accompanied by:

A statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Applicant has provided a statement from counsel that the Office Action was not received and that a review of the application file jacket and docket record does not indicate that the Form PCT/DO/EO/905 was received. In addition, applicant has included pages from the firm's docketing record where the Office Action would have been docketed if received. As such, it is proper to grant applicant's petition at this time.

### **CONCLUSION**

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Form PCT/DO/EO/905 mailed 26 August 2005 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for the preparation and mailing of a new Form PCT/DO/EO/905 indicating that an executed oath or declaration of the inventors is still required.



Derek A. Putonen  
Attorney Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3294  
Fax: (571) 273-0459